

Exhibit 9

Subject: Re: EscapeX - Request that EscapeX correct misrepresentations in recent filing (ECF No. 73)
Date: Wednesday, December 6, 2023 at 11:43:49 AM Central Standard Time
From: Brian Banner
To: William Ramey, Susan Kalra
CC: klazarus@kblfirm.com, Asim Bhansali, Valerie Barker
Attachments: image001.png, image002.png

Bill,

While I am always willing to discuss the case with you, I want to make clear that Google's position continues to be that you and EscapeX should correct your mistaken declaration and motion *immediately*. Any delay in doing so only further prejudices Google and supports a finding of yours and EscapeX's sanctionable conduct in this case. Other than your mistaken recollection, you have identified no direct evidence of any discussion we had regarding your Rule 59 motion prior to Google filing its response on September 27. Your email also does not even attempt to refute any of the evidence I pointed out below about how you are mistaken as to the reason for the 4-minute call log entry and the actual timing of our conversation.

I have provided you the professional courtesy of an opportunity to correct your mistake (something you, in your mistaken belief, did not provide me prior to making a public filing that accused me of lying to the court). If you choose not to correct your mistake, Google will point all of this out in its Reply.

If you still want to discuss anything, I am available any time Friday after 11am (CT). Let me know what time works best for you and I will send a calendar invite.

Regards,

Brian C. Banner

sgb | SLAYDEN GRUBERT BEARD PLLC

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From: William Ramey <wramey@rameyfirm.com>
Sent: Tuesday, December 5, 2023 6:27 PM
To: Brian Banner <bbanner@sgbfirm.com>; Susan Kalra <skalra@rameyfirm.com>
Cc: klazarus@kblfirm.com <klazarus@kblfirm.com>; Asim Bhansali <abhansali@kblfirm.com>; Valerie Barker <vbarker@sgbfirm.com>
Subject: RE: EscapeX - Request that EscapeX correct misrepresentations in recent filing (ECF No. 73)

Brian,

Are you going to actually allege that you cannot remember that we had two calls on this issue. the first was before you filed the fee motion. the second was after you filed it.

We have a 4+ minute phone log to show the call.

We can discuss on Friday if you have time.

Bill

From: Brian Banner <bbanner@sgbfirm.com>

Sent: Tuesday, December 5, 2023 5:41 PM

To: William Ramey <wramey@rameyfirm.com>; Susan Kalra <skalra@rameyfirm.com>

Cc: klazarus@kblfirm.com; Asim Bhansali <abhansali@kblfirm.com>; Valerie Barker <vbarker@sgbfirm.com>

Subject: EscapeX - Request that EscapeX correct misrepresentations in recent filing (ECF No. 73)

Bill & Susan,

I write to notify you of a factual misrepresentation in EscapeX's recent filing (ECF No. 73) and to ask that EscapeX immediately take action to correct the filing to remove the misrepresentation. EscapeX and Mr. Ramey assert that he and I spoke on the phone on September 22. That is incorrect. The conversation between Mr. Ramey and I took place on October 13, not September 22. Thus, nothing in my declaration is incorrect and there is no basis for your accusation that I filed a false declaration. Rather, EscapeX's opposition and Mr. Ramey's supporting declaration is incorrect.

Specifically, the following statements in EscapeX's filing are demonstrably false:

- "Further, Google's lead attorney Brian Banner filed a false declaration in support of Defendant's Second Motion for Fees in an apparent effort to cast a negative light on Ramey LLP." ECF No. 73 at 1.
- "As Exhibit D illustrates, Brian Banner had a 4 minute and 3 second phone call with William Ramey, counsel for EscapeX. During the phone call, Banner and Ramey discussed a hearing date and the basis for the Motion to Amend the Judgment. Ramey explained that he felt the record was not complete and that the Federal Circuit's case law prefers fee awards based upon a full record." ECF No. 73 at 8.
- "I attach as Exhibit D, a true and correct copy of the firm's phone log for the 22nd which shows Mr. Banner's call on the 22nd with me that lasted over 4 minutes. During the over 4-minute call we had on the 22nd, we discussed the hearing date and the basis for why we were filing the Motion to Amend the Judgment. I explained that I understood that the Federal Circuit Court of Appeals prefers a fully developed record for the assessment of fees. I told Mr. Banner that I did not believe the record was complete. He particularly stated that he understood why I was filing the motion but he disagreed that I was entitled to the relief I sought." ECF No. 73-1 ¶ 5.

These statements are demonstrably false because I did not speak with Mr. Ramey when I called his office on September 22. I spoke to a person at his answering service, I was put on

hold when the person who answered attempted to find Mr. Ramey, and I left a lengthy voicemail because Mr. Ramey was ultimately not available. Given what transpired, it would not surprise me if this call was 4+ minutes. I also left a voicemail for Ms. Kalra that same day (I called twice - it is unclear based on Mr. Ramey's call log if both of my calls contributed to the 4+ minute duration).

You should be able to verify that I left a voicemail on September 22 and did not speak with Mr. Ramey (or Ms. Kalra) by simply checking your voicemail and/or answering service logs. In addition, my October 9 email to both of you makes it very clear that we had not discussed this matter by that date despite my many attempts to get in touch:

Subject: Re: EscapeX v. Google: Google Request for EscapeX to Withdraw its Motion to Amend Judgment (Dkt. No. 59)

Date: Monday, October 9, 2023 at 4:37:31 PM Central Daylight Time

From: Brian Banner

To: William Ramey, skalra@rameyfirm.com

CC: Asim Bhansali, klazarus@kblfirm.com

Hi Bill (& Susan),

I've seen a number of emails from you on another matter (LS Cloud v. Google), but you have not yet responded to my two previous emails or my two voicemail messages related to the EscapeX matter.

Do you have time to talk today or tomorrow? We need to know when you and/or Ms. Kalra are available for a motions hearing on EscapeX's Motion to Amend Judgment and Google's forthcoming attorney fees motion. (See my email below.)

You can call me any time at 512-468-6297 (my mobile). Or you can respond to this email with your/Susan's availability and I will accommodate.

Thanks,

Brian C. Banner

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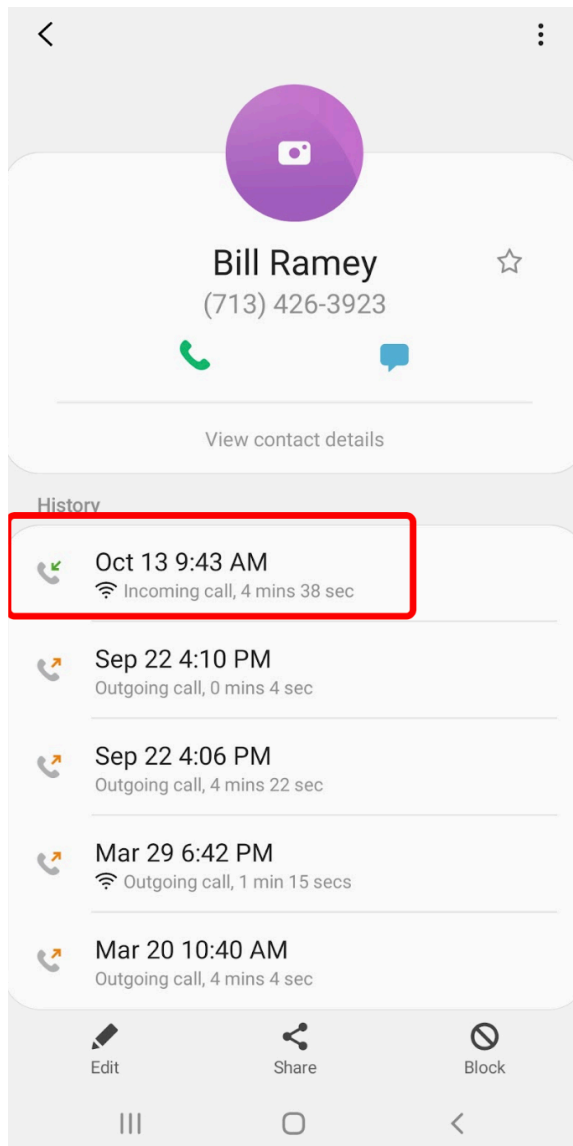
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ECF No. 66-4. It makes no sense that I would be trying to get in touch with Mr. Ramey on this matter if we had already discussed the issue weeks earlier on September 22.

In addition, my phone records confirm that Mr. Ramey and I spoke on October 13 for 4 minutes and 38 seconds:



The October 13 call is the call that Mr. Ramey mistakenly attributes to September 22 in his incorrect declaration. This October 13 call was the call in which Mr. Ramey and I discussed the hearing date and the basis for EscapeX's Motion to Amend the Judgment. Indeed, as a direct result of our October 13 conversation, Mr. Ramey emailed Ms. Kalra and asked her to set a hearing date. See ECF No. 73 at 7 (screenshot of email dated 10/13). (Consistent with my declaration, the September 22 call was a call I made to Mr. Ramey's office, i.e., an outgoing call.)

Please confirm that EscapeX will correct its filing immediately. Otherwise, Google will raise these issues with the Court and will seek all available remedies for having to address EscapeX's and Mr. Ramey's misrepresentations.

Regards,

Brian C. Banner

401 Congress Ave, Ste 1650 | Austin, TX 78701 | USA

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